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1 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

2

3 WYNDHOLME VILLIAGE, LLC., et al., \*

4      Plaintiffs/Counter-Defendants, \*

5 \* CIVIL ACTION

6 vs. \* NO. L01-3809

7 \*

8 NADIF OF WYNDHOLME, LLC., et al., \* VOLUME I

9 Defendants/Counter-Plaintiffs. \* (Pages 1-256)

10 \* \* \* \* \*

11

12           The deposition of JAMES M. LANCELOTTA was  
13 taken on Thursday, January 16, 2003, commencing at  
14 10:00 a.m., at Tydings & Rosenberg, 100 East Pratt  
15 Street, Suite 2600, Baltimore, Maryland 21202,  
16 before Alfred A. Betz, Notary Public.

17

18 \* \* \* \* \*

19 Reported by:

20 Alfred A. Betz,

21 Registered Merit Reporter

0079

1 A. Yes.

2 Q. And had Mr. Coon been your personal  
3 attorney?

4 A. Personal attorney, uh-huh.

5 Q. Okay. There's reference here to a Frank  
6 Laport. Can you tell us what your dealings, about  
7 your dealings with Mr. Laport in 1999 or before?

8 A. I was referred to Frank Laport through an  
9 attorney who had done my condominium documents,  
10 Michael Manness. I spoke with Mr. Laport on the  
11 phone in June. Mike Manness informed me that he  
12 had dealings with Mr. Laport, he was a very, very,  
13 he had, he felt very confident Mr. Laport had the  
14 funds personally to proceed with Wyndholme if he  
15 liked it. If not, he was in the business. He had  
16 done several transactions with him down here. And  
17 if I'm not mistaken, it was with the Myerberg or  
18 Myerhoff families in apartment complexes. I'm not  
19 quite sure which ones. He came highly recommended  
20 by Mike Manness.  
21 I spoke with Frank. He was at the time

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1 involved with a major situation in Florida. He  
2 asked me to send him the information but told me  
3 his schedule was very hectic. I did as he asked.  
4 And he was very interested. It continued, I had to  
5 send him more information, additional information,  
6 up until we made arrangements, I kept  
7 communications going with him. At the time I had  
8 also -- well, I kept communications going with him  
9 throughout the summer and then flew out to meet him  
10 personally August 28th or 29th. 28th. 28th or  
11 29th.

12 Q. Okay. Let me ask the Reporter to mark  
13 the next exhibit.

14 (Whereupon, Deposition Exhibit No.  
15 13, document Bates stamped WV03417, marked.)

16 Q. Mr. Lancelotta, you have in front of you  
17 exhibit 13. Can you identify this for us, please?

18 A. This is a FAX memo from Frank Laport  
19 sending me where to send the books in Florida.  
20 Okay. Yes. This was sooner than I thought. Back  
21 in February. I see that now.

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1 Q. Yes, I was going to make that  
2 observation. This appears to be dated in February  
3 of 1999.

4 A. It was. I was just looking at your sheet  
5 here. When you said June I thought it was June.

6 Q. Does this refresh your recollection --

7 A. Yeah. I had an ongoing rapport with  
8 Frank Laport but never met him. Like I say, he had  
9 a major situation going on in Florida and -- let me  
10 see something. Yes. This is prior to me filing  
11 bankruptcy. February 26th. I was trying my best  
12 to find financing and he was very qualified to  
13 provide it from what I was told.

14 Q. So you approached him before you filed  
15 for bankruptcy?

16 A. Yes. I was mistaken. I'm sorry about  
17 that.

18 Q. That's okay. Assuming that this was in  
19 fact sent on February 26, 1999, do you believe that  
20 that timeframe was the first time you spoke with  
21 him or do you think it was back earlier than that?

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1       A. The reason I believe it's the first time  
2 I spoke with him because that's where he gave me  
3 the address in Florida. Between his office in  
4 Chicago and going to Florida, he asked me to  
5 forward them there because he'd have time to read  
6 them on the plane.

7       Q. Do you recall whether you and Mr. Laport  
8 had any other conversations prior to the bankruptcy  
9 filing about potential lending?

10      A. No. I don't. About potential lenders,  
11 you said?

12      Q. No. I'm sorry. About him becoming a  
13 potential lender or participating in the deal?

14      A. No. I am pretty sure based on what I see  
15 that this was the first time that -- I must have  
16 spoke to him a day or so before this, obviously. I  
17 don't know when.

18      Q. Do you recall when you followed up with  
19 him after you sent him materials?

20      A. I'm sorry?

21      Q. After you sent them the materials?

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1 A. Yes. Uh-huh.

2 Q. Was he very interested prior to the  
3 filing of the bankruptcy?

4 A. I can't recall.

5 Q. Okay. After the filing of the  
6 bankruptcy, though, I gather there was renewed  
7 contact with Mr. Laport; is that fair?

8 A. I think it would be fair to say it was  
9 continuous contact.

10 Q. Continuous?

11 A. Yes. From when I initially engaged  
12 conversation with him.

13 Q. You testified earlier that it culminated  
14 in a, or at least ultimately you had a meeting with  
15 him in August?

16 A. Yes. The day before I signed another  
17 deal.

18 Q. The deal with the NADIF people; is that  
19 correct?

20 A. Correct.

21 Q. In fact, you had already signed the deal

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1 with the NADIF people in August?

2 A. Well, the next day, yeah, they called me  
3 to tell me they were ready to proceed with the deal  
4 and I told them I had signed with NADIF.

5 Q. Hadn't you already signed a document in  
6 July?

7 A. Yeah. No. Oh! Yes. Yes.

8 Q. But when you met with Mr. Laport in  
9 August you already had a signed agreement with  
10 NADIF; is that right?

11 A. Yes.

12 Q. Let me have this marked --

13 A. However --

14 Q. Go ahead. You want to amplify.

15 A. There was -- no. That's my answer is  
16 yes.

17 (Whereupon, Deposition Exhibit No.  
18 14, document Bates stamped WV03419-25, marked.)

19 Q. I show you what's been marked as exhibit  
20 14, Mr. Lancelotta, and I will represent to you  
21 that I don't know for certain whether the first

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1 page was originally attached to the back pages. My  
2 guess is it probably was not. If you would look  
3 through it because I will ask you if you can  
4 explain it.

5 A. Okay. I'm sorry, your question was?

6 Q. Let me ask you a series of questions.  
7 First of all, the first page appears to be a FAX  
8 note of some kind. Is that what it is?

9 A. Correct.

10 Q. From you to Mr. Laport; is that correct?

11 A. Correct. Yes.

12 Q. And it is dated August 25, 1999?

13 A. That's correct.

14 Q. Is this your handwriting?

15 A. Yes.

16 Q. Would you read it into the record for us  
17 just to make sure that --

18 A. Sure. Thank you. I'll focus tonight on  
19 how to structure this opportunity with you and your  
20 affiliates. I'm very excited about the  
21 possibilities that exist and brainstorming with you

0086

1 how to make this work. Look forward to your call.

2 Respectfully, Jim.

3 Q. And by make this work, you meant a deal  
4 with him with respect to Wyndholme Village; is that  
5 right?

6 A. Yes. Yes.

7 Q. Now, the next -- well, the next page is  
8 captioned Financial Overview Wyndholme Village  
9 1999. Do you see that?

10 A. Uh-huh.

11 Q. Can you identify this page or the  
12 subsequent pages to me or for me?

13 A. I'm sorry?

14 Q. What is this document, that is, --

15 A. It's a financial overview.

16 Q. Is this a document that was prepared by  
17 you or somebody at your direction?

18 A. No. This appears it was prepared by me.

19 Q. Do you believe this was a document that  
20 was sent to Mr. Laport?

21 A. I do.

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1 Q. Is it fair to assume that this was sent  
2 to Mr. Laport sometime before the August 25 cover  
3 memo on this?

4 A. It looks like it was, this was five pages  
5 with this FAX cover and it looks like there's five  
6 here. I don't know what this last page is.

7 Q. Okay. But you had sent Mr. Laport basic  
8 information on Wyndholme Village as early as  
9 February of '99; is that correct?

10 A. Uh-huh. That's correct.

11 Q. Okay. Do you know why for the purposes  
12 of exhibit 11, the list of lenders, you used June  
13 2, 1999 as the date for your connection with Mr.  
14 Laport?

15 A. No, I don't, tell you the truth. I  
16 really don't. Because obviously it was February my  
17 first contact with him.

18 Q. First contact?

19 A. Yeah. As I said, it was continuous from  
20 there forward.

21 Q. From there up until at least August --

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1 A. It's still continuous. I still talk with  
2 Frank Laport.

3 Q. But in terms of his possible  
4 participation in this project at least until  
5 sometime in 2000 -- strike that. After you signed  
6 the August 30 agreement with NADIF, and up until,  
7 say, February of 2000, that is the six months or  
8 so, did you continue to have discussions with Mr.  
9 Laport?

10 A. I had a conversation with Mr. Laport the  
11 day after I signed, or the day I signed the  
12 agreement with NADIF. The August 30th agreement.

13 Q. And what was the gist of that  
14 conversation?

15 A. He tried to reach me -- the August 30th  
16 agreement was signed at 3 in the morning the 29th.

17 Q. Actually I think it was the 31st, but  
18 we'll get into that.

19 A. Whatever day, if you go back on your  
20 thing, whatever, Sunday I flew to Chicago, Monday I  
21 met with NADIF. So I mean whatever, if it's the

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1 29th, the 30th, whatever it is. Frank called me to  
2 tell me they were ready to move ahead and I said  
3 Frank, I finalized the deal with NADIF. He said  
4 I'm sorry to hear that. But good luck.

5 Q. What were the terms of the deal with  
6 Laport?

7 A. They were not totally, they were not  
8 outlined -- well, some of the terms are mentioned  
9 in this agreement. They were not finalized.

10 Q. When you say this agreement?

11 A. If you look at the return, second to the  
12 last page. Suggested investment --

13 MR. SCHULMAN: Is there a Bates stamp  
14 number?

15 Q. What's the number?

16 A. 3424.

17 Q. Let's look at this page, page 3424. Is  
18 this a page that you believe was generated  
19 specifically for Mr. Laport's potential  
20 participation?

21 A. This was, as it says at the top,

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1 suggested investment return for his, as I guess as  
2 a reference point to go off of.

3 Q. But is this a return that he would have  
4 received or that would have been generated under  
5 the specific deal that you were proposing with Mr.  
6 Laport?

7 A. It says this was a, basically guidelines.  
8 There was not a specific deal put in crystallized.  
9 It wasn't done. He was ready to come and do it.  
10 He had the money. And it was a matter of this was  
11 general principle guidelines of where I was coming  
12 from.

13 Q. Okay. Had this document or the document  
14 like it been submitted to other prospective  
15 investors or lenders?

16 A. Not to my knowledge.

17 Q. Okay. Do you have anything in writing  
18 from Mr. Laport indicating terms in which he would  
19 be willing to do this deal?

20 A. In writing. Not that I can recall. I  
21 mean, there was a lot of spreadsheets done and

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1 things like that. But most of them were generated  
2 by me.

3 Q. Were they generated by you specifically  
4 for a potential Laport transaction? I'm talking  
5 about 1999 now. Let's focus on that time period.  
6 I understand he came into the project later on.

7 A. No. Actually, no. It stopped. The  
8 initial books that went out, and I don't remember  
9 what was in them, you can see they were sent in  
10 February, once the deal was finalized with NADIF on  
11 August 30th this was off the table.

12 Q. Right.

13 A. And then it didn't come, and then my  
14 conversations with Laport were just keeping -- we  
15 got along very well.

16 Q. What, if any, documents do you have prior  
17 to August of 19, prior to August 25, 1999 that  
18 evidenced the transaction or the discussions and  
19 terms of your discussions with Mr. Laport? Do you  
20 think you have anything?

21 A. I don't think I have any. If I do, they

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1 should have been in that record room that you went  
2 through. I had a pile there. I don't know whether  
3 you pulled that one or not. This must have been in  
4 his file.

5 Q. Well, this came from your documents.

6 A. Yes. So the file must have been there.

7 Q. In your interrogatory answers, Mr.

8 Lancelotta, and it's exhibit 5 --

9 A. Okay.

10 Q. -- interrogatory 3, this starts on page 3  
11 and carries over to page 4, asks for the  
12 identification of documents on which you intend to  
13 rely in this case and the answer identifies some  
14 documents including -- oh, where is it? Number 2.  
15 Sub 2. Information FAXed from and to Frank Laport  
16 which included a status report for WV, LLC,  
17 financial overview for WV, LLC, current obligations  
18 of James Lancelotta, personal/investment/return WV,  
19 LLC prior to executing the venture agreement with  
20 NADIF dated August 29, 1999.

21 A. Uh-huh.

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1 Q. Does exhibit 14 appear to be the document  
2 to which you refer in your interrogatory answer?

3 A. Yes.

4 Q. Are there any other documents that you  
5 know of that relate to Mr. Laport on which you  
6 intend to rely to support your claims in this case?

7 A. Exactly how I answered in my  
8 interrogatory. All I have to my knowledge right  
9 now is this, what's here.

10 Q. In an earlier question I think we  
11 established that at the time you were meeting with  
12 Mr. Laport in Chicago in late August 1999 you had  
13 already signed an agreement with NADIF; is that  
14 correct?

15 A. Uh-huh.

16 Q. Did you have any misgivings about dealing  
17 with Mr. Laport after you signed an agreement with  
18 NADIF?

19 A. I'm sorry, say that again.

20 Q. Did you have any misgivings about  
21 continuing to deal with Mr. Laport after you

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1 already had an agreement with NADIF?

2 A. I -- basically, the situation with NADIF  
3 at that time in the beginning of August they were,  
4 if memory serves me correctly, there were some  
5 issues with Neil Fisher and Mr. Pilevsky and they  
6 weren't sure, even though they had signed their  
7 agreement, the Court had not approved the super  
8 priority funding yet, they weren't sure if they  
9 were going to proceed anyway. That was the reason  
10 that I actually went out to Chicago.

11 Q. Okay. Let's go back to the timeframe of  
12 your first meetings with Mr. Fisher and others that  
13 later became affiliated with NADIF and Wyndholme  
14 just to put it in context, the timeframe, I believe  
15 your affidavit refers to meetings on June the 8th.

16 A. Uh-huh. I met Mr. Pilevsky. Yeah, okay.  
17 Fisher, okay.

18 Q. We can look at your affidavit but I think  
19 your affidavit talks about a meeting in the morning  
20 with Mr. Fisher.

21 A. Oh, yeah. Okay.

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1 A. No, it isn't what we agreed to. They  
2 don't have any obligation here.

3 Q. Do you have any recollection, sitting  
4 here today, why the language would have changed so  
5 significantly in this agreement compared to the  
6 prior agreement?

7 A. You have to ask Mr. Fraga that. He's the  
8 one that drafted it.

9 Q. Okay.

10 A. Maybe he wanted to see if I was reading  
11 them or not.

12 Q. Were you?

13 A. Of course. I might add one thing on  
14 that, too. If you read the cover on the front,  
15 Neil Fisher has not read this. This was done by  
16 Fraga himself. Please provide a copy of enclosed  
17 to Neil upon his arrival since he has not had an  
18 opportunity to review same. That's probably why  
19 that blatant mistake was in there.

20 Q. Next exhibit.

21 (Whereupon, Deposition Exhibit No.